

REMARKS

I. Introduction

Claims 1 to 19 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Allowed Claims 5 to 16

Applicants note with appreciation the indication that claims 5 to 16 are allowed.

III. Rejection of Claims 1 to 4 and 17 to 19 Under 35 U.S.C. § 103(a)

Claims 1 to 4 and 17 to 19 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,713,501 ("Yokoyama et al."), U.S. Patent No. 6,561,489 ("Wakefield"), U.S. Patent No. 6,701,913 ("LeDuc et al.") and U.S. Patent No. 6,712,171 ("Farmer"). It is respectfully submitted that the combination of Yokoyama et al., Wakefield, LeDuc et al. and Farmer does not render unpatentable the present claims as amended herein for at least the following reasons.

As an initial matter, the Examiner will note that certain amendments have been made to independent claims 1 and 17 to 19. In particular, claim 1 has been amended herein without prejudice to recite that at least one sensor is configured to detect at least one **predetermined open position** of a spare wheel carrier and to transmit the at least one **predetermined open position** to a control unit. Claim 1 has been further amended herein without prejudice to recite that the control unit is configured to enable and block functions of a motor vehicle in accordance with detection of the spare-wheel carrier in the **predetermined open position**. Claims 17 to 19 have been amended herein without prejudice in an analogous manner. Support for these amendments may be found, for example, on page 7, lines 7 to 12 of the Specification. For example, the Specification mentions that an end switch 15 closes when a carrier part 12 is in a desired position, e.g., at or beyond a preset angular position of 90°, which consequently enables tailgate 21 to be opened. Thus, a **predetermined degree or position** of opening of a spare-

wheel carrier may be determined as opposed to a merely closed or open state of the spare-wheel carrier.

The foregoing is in stark contrast to the devices described by Yokoyama et al., Wakefield, LeDuc et al. and Farmer, which, to the extent any detection of a movable part is determined, operate based on a closed position of the movable part. Regarding Yokoyama et al., the Final Office Action admits at page 2 that Yokoyama et al. fail to disclose a sensor. Regarding Wakefield, Wakefield describe a winch drive system that includes a limit switch 6, which apparently is operable to operate a pilot light in accordance with contact between the limit switch and a spare tire assembly. The limit switch 6 appears to indicate whether the spare tire assembly is secured, e.g., analogous to a closed state, and not whether the spare tire assembly is in a predetermined open position. Thus, Wakefield do not disclose, or even suggest, that limit switch indicates the spare tire assembly being in a predetermined open position. Likewise, LeDuc et al. mention that the apparatus 100 could include a sensing device to detect when the primary swing arm 340 is in a closed position next to the support arm 322. Sensing whether a primary swing arm 340 is in a closed position is inapposite to detection of a spare-wheel carrier being in at least one predetermined open position. That is, LeDuc et al. do not disclose, or even suggest, a sensing device that detects a predetermined open position of the primary swing arm 340. Likewise, Farmer mentions a switch 14 which is used to detect whether the fuel door 15 is in a closed state or an open state. The detection of whether a fuel door 15 is merely in a closed state or an open state is inapposite to detection of a spare-wheel carrier being in at least one predetermined open position. That is, Farmer does not disclose, or even suggest, that switch 14 detects the fuel door 15 being in a predetermined open position. Thus, the triggering condition of the devices described by Wakefield, LeDuc et al. and Farmer is whether movable parts are in a closed state relative to each other as opposed to detecting a predetermined open position of these parts relative to each other. As such, it is respectfully submitted that the combination of Yokoyama et al., Wakefield, LeDuc et al. and Farmer fails to disclose, or even suggest, all of the features recited in claims 1 and 17 to 19. Accordingly, it is respectfully submitted that the combination of Yokoyama et al., Wakefield, LeDuc et al. and Farmer does not render unpatentable claims 1 and 17 to 19.

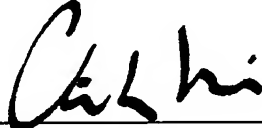
As for claims 2 to 4, which ultimately depend from claim 1 and therefore include all of the features included in claim 1, it is respectfully submitted that the combination of Yokoyama et al., Wakefield, LeDuc et al. and Farmer does not render unpatentable these dependent claims for at least the same reasons more fully set forth above.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

IV. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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